

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DELANEY BRYANT, BRIANNA LEMMON,
and VIOLET OSPINA, on behalf of themselves
and all others similarly situated,

Plaintiffs,

-against-

BUFFALO EXCHANGE, LTD.,

Defendant.

Case No. 1:23-cv-08286

**DEFENDANT BUFFALO
EXCHANGE, LTD.’S
NOTICE OF SUPPLEMENTAL
AUTHORITY**

Defendant Buffalo Exchange, Ltd. (“Buffalo Exchange”) respectfully submits this *Notice of Supplemental Authority* in support of its Motion to Dismiss, or in alternative to Stay (See Dkt. #30.)

On May 8, 2024, after Buffalo Exchange filed its Reply Brief (Dkt. #36), the Honorable Ann M. Donnelly, U.S.D.J. in the Eastern District of New York in *Calixte v. Bioreference Labs., Inc.*, which concerns similar allegations here (*i.e.*, violations of New York Labor Law Sections 191 and 198), granted a temporary stay “pending a decision on the application for leave to appeal to the New York Court of Appeals in *Grant v. Global Aircraft Dispatch, Inc.*, 223 A.D.3d 712. If leave to appeal is granted, the proceedings are stayed until the New York Court of Appeals issues a decision.” *Calixte v. Bioreference Labs., Inc.*, No. 1:24-cv-00083-AMD-VMS (E.D.N.Y. May 8, 2024) (attached as **Ex. 1**).

This is now the third federal district court in New York to enter a stay based on the appellate proceedings in *Grant*. As in *Calixte*, Buffalo Exchange respectfully requests that, to the extent this Court does not grant its Motion to Dismiss, the Court temporarily stay

further proceedings in this action pending the outcome of an appeal in *Grant*.

Dated: May 13, 2024

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EXHIBIT 1

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ACO,DJI

**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:24-cv-00083-AMD-VMS**

Calixte v. Bioreference Laboratories, Inc.
Assigned to: Judge Ann M Donnelly
Referred to: Magistrate Judge Vera M. Scanlon
Cause: 28:1332 Diversity-(Citizenship)

Date Filed: 01/04/2024
Jury Demand: None
Nature of Suit: 790 Labor: Other
Jurisdiction: Diversity

Plaintiff

Enejah Calixte

represented by **Frank Joseph Mazzaferro**
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V.

Defendant

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03/28/2024		<p>ORDER. The Court is in receipt of the parties' joint letter at ECF No. 18 requesting an adjournment of the 4/9/2024 Initial Conference pending the District Court's decision on Defendants pending 15 Motion to Stay. In light of the District Court's 03/28/2024 Order directing the parties to appear before the Court on 5/07/2024 to discussion the 15 Motion, the Initial Conference is adjourned.</p> <p>Following the District Court's decision, the parties must file a status report by 5/13/2024 informing this Court whether they wish to move forward with discovery and reschedule an initial conference. Ordered by Magistrate Judge Vera M. Scanlon on 3/28/2024. (CC) (Entered: 03/28/2024)</p>
04/08/2024	19	MEMORANDUM in Opposition re 15 MOTION to Stay filed by Enejah Calixte. (Schaffer, Brian) (Entered: 04/08/2024)
04/08/2024	20	AFFIDAVIT/DECLARATION in Opposition re 15 MOTION to Stay filed by Enejah Calixte. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (Schaffer, Brian) (Entered: 04/08/2024)
04/09/2024		SCHEDULING ORDER: Due to a conflict in the Court's schedule, the oral argument in connection with the defendant's motion to stay 15 previously scheduled for May 7, 2024 will be held on Monday, May 6, 2024 at 11:00 a.m. in Courtroom 4G North. Ordered by Judge Ann M. Donnelly on 4/9/2024. (JA) (Entered: 04/09/2024)
04/22/2024	21	REPLY in Support of <i>Motion to Stay</i> filed by All Defendants. (Attachments: # 1 Declaration Lynne A Anderson Declaration in support of Reply Brief, # 2 Exhibit Exhibit 1 to Lynne A Anderson Declaration, # 3 Certificate of Service William R Horwitz Certificate of Service) (Horwitz, William) (Entered: 04/22/2024)
04/25/2024		SCHEDULING ORDER: Due to a conflict in the Court's schedule, the oral argument in connection with the defendant's motion to stay 15 previously scheduled for May 6, 2024 will be held on Wednesday, May 8, 2024 at 11:00 a.m. in Courtroom 4G North. Ordered by Judge Ann M. Donnelly on 4/25/2024. (JA) (Entered: 04/25/2024) (Entered: 04/25/2024)
04/26/2024	22	Letter by Bioreference Laboratories, Inc. (Attachments: # 1 Certificate of Service William R. Horwitz, Esq. Certificate of Service) (Horwitz, William) (Entered: 04/26/2024)
05/08/2024		Minute entry for oral argument on the defendant's motion to stay proceedings held before Judge Ann M. Donnelly. Appearances by Frank Mazzaferro for the plaintiff and William Horowitz for the defendant. Case called. Discussion held. The defendant's motion to stay 15 is granted pending a decision on the application for leave to appeal to the New York Court of Appeals in <i>Grant v. Global Aircraft Dispatch, Inc.</i> , 223 A.D.3d 712. If leave to appeal is granted, the proceedings are stayed until the New York Court of Appeals issues a decision. Ordered by Judge Ann M. Donnelly. (Court Reporter Andronikh Barna.) (JA) (Entered: 05/08/2024)
05/09/2024	23	Letter <i>Joint Status Report Pursuant to March 28, 2024 Court Order</i> by Bioreference Laboratories, Inc. (Hayes, Brian) (Entered: 05/09/2024)